

REMARKS

Independent Claim 1 has been amended as suggested by the Examiner and to improve the readability thereof.

Independent Claim 1 defines the invention as a peak flow measurement device that includes a hollow body having an inlet for receiving fluid and an outlet. The inlet and outlet are spaced apart from each other. The cross-sectional area of the body is greater than the cross-sectional area of the outlet. In use, the device is oriented such that the inlet is above the outlet and the measured peak flow is proportional to the maximum height of fluid within the body. The hollow body comprises at least two portions each having different cross sectional areas, and the cross sectional area of the hollow body increases step-wise. This structure is neither shown nor suggested in the art of record.

The Examiner did not address the applicant's previous argument that the Coanda reference is non-analogous art to the claimed invention and to the Currie reference. Rather, the Examiner merely stated that "[b]oth Currie and Coanda teach urine devices." This conclusory statement does not address any of the arguments presented on this issue and, therefore, is unreasonable and untenable. A detailed explanation of the Examiner's position on this issue is respectfully requested.

As set forth in Section 2141.01(a) of the MPEP, a reference must either be (1) in the field of the applicant's endeavor or (2) reasonably pertinent to the particular problem with which the inventor was concerned. With respect to the latter test, a reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem.

With respect to the first leg of this test for analogous art, the field of the Coanda reference (namely, a urometer for measuring volumes of urine output) is quite different from the field of the claimed invention (namely, a device for measuring the maximum or peak rate of flow of urine). Thus, the field of the Coanda reference is clearly not within the field of the claimed invention. With respect to the second leg of

this test for analogous art, the problems addressed by the Coanda reference (namely, the difficulties associated with measuring both small and large volumes of urine) are quite different from the problems addressed by the claimed invention (namely, the difficulties associated with providing a device of significantly reduced complexity and ease of manufacture that is appropriate for the rapid screening of patients suffering urodynamic conditions without recourse to expert assistance). Thus, the Coanda reference is clearly non-analogous art to the claimed invention and, therefore, should not be considered at all when evaluating the patentability of the claimed invention.

Additionally, the Examiner did not address the applicant's previous argument that the Coanda reference does not show or suggest a hollow body including at least two portions having different cross sectional areas that increase step-wise. Rather, the Examiner merely cited Fig. 2 of the drawings. This vague statement does not address any of the arguments presented on this issue and, therefore, is unreasonable and untenable. A detailed explanation of the Examiner's position on this issue is respectfully requested.

The Currie reference discloses a urinary flow rate measurement device having a wall that is tapered from an upper opened end to a lower closed end to allow a user to look down through the opened end and view the level of urine, as well as indicia provided on the wall. No step-wise increase in the cross sectional area of the hollow body is disclosed in the wall of the Currie reference. Rather, the transition between the chambers 3 and 4 in the Coanda reference is described as being a "sloping bottom 18" (see Column 2, Line 33) and is clearly illustrated as being tapered, not a step-wise increase as specifically claimed. There is no suggestion whatsoever contained in the Coanda reference that this transition can or should be step-wise, as clearly illustrated in the application and described in the specification.

As described in Paragraph [0023] of the specification, "[w]hen a subject looks vertically downwards into the cylinder, as might a test subject when urinating into it, concentric rings will thus be observed at the shoulder of each step. As each step shoulder is immersed in urine, the subject may easily assess whether the height achieved by the urine surpasses the step." Thus, the step-wise increase is an important

feature of the invention that is neither shown nor suggested in the Coanda reference or the other art of record. Additionally, Claim 22 further recites that each step-wise increase in the cross-sectional area of the hollow body includes a step, and that each step extends perpendicularly relative to a wall of the hollow body. The Examiner's explanation of the rejection is also deficient in this regard - clarification is requested. Clearly, none of the art of record discloses this specifically claimed structure.

Claim 17 depends from Claim 1 and further recites that each step-wise increase in the cross-sectional area of the hollow body includes a step, and that at least one pyramidal tooth is incorporated into the rim of each step. The Examiner identified the sloping bottom 18 of the Currie reference as being the claimed pyramidal tooth. This interpretation of the Currie reference is clearly unreasonable because the alleged pyramidal tooth completely eliminates the step. In other words, under the Examiner's interpretation, the two claimed elements (the step and the tooth) are embodied by one single structure. This analysis is clearly incorrect and contrary to well accepted principles of claim interpretation.

Claim 23 further recites that each step-wise increase in the cross-sectional area of the hollow body includes a step, and that a plurality of pyramidal teeth is incorporated into the rim of each step. Clearly, none of the art of record discloses this structure.

Respectfully submitted,

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